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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,635	12/09/2003	W. Michael DeLoach SR.	T105 1010.2	4719

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,635

Applicant(s)

DELOACH, W. MICHAEL

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-23 and 33-37 is/are allowed.
- 6) ☒ Claim(s) 1, 11-13, 24, 25 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 2-10, 14-16 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: the first page of the specification needs to be updated to include the application continuation information. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,506,428 to GERHARD. GERHARD discloses a concrete form including inwardly facing channel-shaped members (11-14) attached at the ends thereof; a reinforcing mat (18-22) made up from criss-crossed members; and a plurality of brackets (40) disposed on the ends of the reinforcing members (18-22) such that the brackets (40) are fixed to the frame (11-14) by (31-34) to thereby hold them in place. In reference to claim 12, the frame members are metal (column 3, line 24).

Claim 24,25 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,506,428 to GERHARD. In reference to claims 24 and 25, GERHARD discloses a concrete form including inwardly facing channel-shaped members (11-14) attached at the ends thereof; a reinforcing mat (18-22) made up from criss-crossed members; and a plurality of brackets (40) disposed on the ends of the reinforcing

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members (18-22) such that the brackets (40) are fixed to the frame (11-14) by (31-34) to thereby hold them in place. Regarding claims 29-32, the frame members (11-14) are channel-shaped, profiled for rigidity, and face inwardly.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,216,866 to EKEDAL. EKEDAL discloses a form including a frame (7), a reinforcing mat (11) disposed within and adjacent to the frame (7), and a plurality of brackets (4) slidably disposed on the ends of the reinforcing mat (11) thereby holding the mat (11) in place with respect to the frame (7). EKEDAL discloses the basic claimed form except for explicitly detailing that the form consists of a plurality of frame members and except for explicitly detailing that the reinforcing mat includes criss-crossed members.

Regarding the form including a plurality of members, although EKEDAL is silent in this

regard, it would have been obvious to one having ordinary skill in the art at the time the invention was made that in order to create a form EKEDAL must obviously include a plurality of members. In reference to the reinforcing mat having criss-crossed members, although EKEDAL merely identifies his reinforcing mat as re-bar matrix, "matrix" obviously includes reinforcing members that cross one another.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,506,428 to GERHARD. GERHARD discloses the basic claimed form except for forming the members out of cold-rolled sheet metal. Although GERHARD does not specify "sheet" metal, he does detail the use of metal. It would have been obvious to one having ordinary skill in the art to select a known material suitable for the use intended as an obvious matter of design choice.

Allowable Subject Matter

Claims 17-23 and 33-37 are allowed.

Claims 2-10,14-16 and 26-28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton
Art Unit 3635
3/21/05